IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

WRIT PETITION No. 13002 of 2005

Between:

V.G. Granite Exports Pvt. Ltd, 8-3-898/1/A,

Nagarjuna Nagar, Ameerpet, Hyderabad - 500039.

..... PETITIONER

AND

1. District Collector & Magistrate, Prakasam District, Ongole.
2. Mandal Revenue Officer, Chimakurthy Mandal, Chimakurthy, Prakasam District.
3. Station House Officer, Chimakurthy Police Station, Chimakurthy, Prakasam District.
4. Victoria Granites Pvt. Ltd, 8-2-696/697 , Carmel Point, Road No.

12, Banjara Hills, Hyderabad - 500 034, rep. by its Managing

Director K. Raghava Reddy.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue any appropriate Writ, Order or Direction more particularly one in the nature of a Writ of Mandamus declaring the action of the respondents 1 to 3 in interfering with the Black Granite quarry of the Petitioner consisting of blocks 1, 3, 5, 6 and 7 in an extent of Ac. 15.50 in S.No. 55/5 of R.L. Puram Village of Chimakurthy Mandal, Prakasam District at the instance of the 4th respondent as illegal and void and consequently direct them not to

interfere with the same except in accordance with law and pass such other further orders as this Hon'ble Court may deem fit in the circumstances of the case.

Counsel for the Petitioner: MR.A.RAMALINGESWAR RAO

Counsel for the Respondent No.1 & 2: GP FOR REVENUE

Counsel for the Respondent No.3: G.P. FOR HOME

Counsel for the Respondent No.4: V.L.SURENDER

The Court made the following :

ORDER:

The case of the petitioner is that the 4th respondent company was promoted by it and was registered in the year 1984 with a paid up share capital of 11,000 equity shares of Rs.100/- each and it held 6,990 shares of the face value of Rs.6,99,000/- and other 4010 equity shares were held by M/s. Midwest Granites Private Limited, but due to disputes a Memo of Understanding was entered into on 5.1.2002 and an extent of Ac.15.50 cents of leasehold land stood transferred in favour of the petitioner herein consisting of blocks 1,3,5,6, and 7. Thereafter, the 4th respondent executed two separate agreements in favour of the petitioner for conducting sales and raising agreement dated 5.1.2002 and sale agreement dated 7.1.2002 and the petitioner had been conducting quarrying operations in the said blocks and has been in possession of the quarry. While so, the 4th respondent cancelled the raising agreement which was challenged in OS No. 105 of 2005 before the learned Principal Senior Civil Judge, Ongole. Pending the said suit, it is stated that the 4th respondents made a representation to the first respondent and others and illegally transported 2500 cubic meters of excavated granite blocks and stored in their land on 11.5.2005 and a case in Cr. No. 71 of 2005 came to be registered by the PS Chimakurthy. It is further submitted that in pursuance of the compromise decree dated 22.4.2002, in O.S.

No. 28 of 1999 on the file of the VIII Addl. Chief Judge, City Civil Court, Hyderabad, the petitioner is in possession of Ac.15.50 cents and the 4th respondent is trying to dispossess the petitioner of the said extent, by virtue of political clout. It is stated that the rights of the parties are governed by the agreements and, therefore, apprehending danger of dispossession, the petitioner filed the present writ petition.

Pursuant to the Rule Nisi, the 4th respondent filed counter denying various allegations made in the writ affidavit. It is asserted that the petitioner has filed OS No. 105 of 2005 assailing the annulment of raising contract. In the said suit, the petitioner also filed I.A. No. 488 of 2005 seeking to implead the District Collector, Ongole and the Assistant Director of Mines and Geology ands the Mandal Revenue Officer, Ongole, as the defendants 2 to 4. It is also asserted that when the petitioner failed to obtain interim injunction against the 4th respondent, he straightaway approached this court and filed the writ petition and obtained interim orders, which cannot be continued any further. It is further submitted that if the defence that the Mandal Revenue Officer has tried to evict the petitioner from the suit schedule land is accepted, nothing prevented the petitioner from obtaining suitable order from the learned Principal Senior Civil Judge, Ongole, by filing an interlocutory application, after impleading the official respondents, as defendants, in the suit.

Admittedly, the petitioner has approached Civil Court for the same cause of action and when he failed to get favourable orders, he filed the present writ petition and obtained interim orders. In that view of the matter, since the petitioner cannot conduct two parallel proceedings in respect of the same cause of action and that the rights of the parties emanate from the recitals of the agreements, which cannot be decided in a proceeding under Article 226 of the Constitution of India, the writ petition is liable to be dismissed and is accordingly dismissed, without dwelling on the merits or otherwise of the lis. It is needless to add that the petitioner is at liberty to approach

civil court against any of the coercive steps, as complained herein, to protect its interest. No order as to costs.

Elipe Dharma Rao, J.

June 24, 2005

MAS.

To

1. District Collector & Magistrate, Prakasam District, Ongole.
2. Mandal Revenue Officer, Chimakurthy Mandal, Chimakurthy, Prakasam District.
3. Station House Officer, Chimakurthy Police Station, Chimakurthy, Prakasam District.

4. 2 Copies each to the Govt. Pleader for Revenue and Home, A.P.

High Court Building, Hyderabad.

5. 2 CD copies

6. 1 CC to MR.RAMALINGESWAR RAO

*Form-NIC-OGS/WP{**AVLR**}*